

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CHRIS WITHALL

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SDNY PRO SE OFFICE

2017 JAN 24 AM 11:34

17CV 541

Petitioner,

v.

Warden, FCI Otisville, NY and
President Donald J. Trump

PETITION FOR A
WRIT OF HABEAS
CORPUS UNDER
28 U.S.C. § 2241

____ Civ. ____ ()

Respondent(s).

YOU MUST COMPLETE THIS ENTIRE FORM

1. Parties in this Petition:

- a. You are the Petitioner. List your name and address. If you are currently in custody, include your identification number and the name and address of your current place of confinement.

Petitioner's Name: Christopher Withall

Prisoner ID#: 08964036

Alien #: [Born on this planet, not an alien]

Current Institution: Federal Correctional Institution (Otisville, NY)

Address: PO Box 1000, Otisville NY 10963-1000

- b. List all Respondents by name, position, and place of employment. Make sure that the respondent(s) listed below are identical to those contained in the above caption. Attach additional pages of paper if necessary.

Respondent No. 1

Name: "WARDEN"

Where Currently Employed: Federal Bureau of Prisons (BOP)

Address: FCI Otisville, Two Mile Drive, Otisville NY 10963

Respondent No. 2

Name: President Donald J. Trump

Where Currently Employed: USA / White House

Address: The White House, 1600 Pennsylvania Ave, Washington DC

Respondent No. 3 N/A

Name: _____

Where Currently Employed: _____

Address: _____

Respondent No. 4 N/A

Name: _____

Where Currently Employed: _____

Address: _____

2. This petition concerns (check one):

- a. ☐ a conviction and/or a sentence
- b. ☐ calculation of sentence
- c. ☐ parole
- d. ☐ prison disciplinary proceeding
- e. ☐ detainer
- f. ☐ other (explain) Writ of Habeas Corpus Ad Prosequendum?

3. Provide the following information regarding the conviction(s) and sentence(s) for which you are currently incarcerated. 28 USC § 2241(c)(5)

a. Name(s) and location(s) of court: United States District Court, Portland, ME

b. Case Number(s): 2:15 CR 00144-001

c. Charge(s) of which you were convicted: Felon in possession of gun

d. What was your plea?

- (1) Not guilty ☐
- (2) Guilty ☒
- (3) Nolo contendere ☐

e. Did you appeal from the judgment of conviction? Yes ☐ No ☒

4. If you did appeal, answer the following:

a. Name of court: _____ Case #: _____

b. Result: _____

- c. Date of opinion and mandate (if known): _____
5. If you are challenging your conviction or sentence: N/A
- a. Have you previously filed a motion under 28 U.S.C. § 2255?
Yes ☐ No ☐
- If yes, please provide the case #, the name of the court where filed, relevant date(s), and the results: _____

- b. Challenges to your federal conviction or sentence can be raised only by motion under 28 U.S.C. § 2255, unless the § 2255 motion is "inadequate or ineffective to test the legality of [your] detention." 28 U.S.C. § 2255 (e). If you are challenging your conviction or sentence, please explain what serious constitutional questions may be raised if the Court does not consider your *habeas* petition: _____

6. If this case concerns parole, N/A
- a. Does it concern (check one): ☐ revocation OR ☐ denial?
- b. When and where was your parole revoked or denied? _____

7. If this case concerns a prison disciplinary proceeding, when and where did this proceeding take place? N/A
8. If this case concerns a detainer, does the detainer concern a (check one):
☐ federal matter ☒ state matter ☐ immigration matter?
(State of Maine)
9. In the spaces below, set forth every ground that supports your claim that you are incarcerated unlawfully. Briefly summarize the specific facts in support of each ground raised. You may attach additional pages if necessary to raise additional grounds or provide additional facts.

- a. Ground One: Require issuance of a writ under 28 USC § 2241(c)(5) to allow me to appear in State Court in Maine to defend myself against pending charges.

Supporting FACTS: I am currently in Federal Prison in Otisville, NY
The State of Maine filed theft charges against me —
Case No. ANDCDCR 201500887 - Androscoggin County, ME
The BOP and this prison will not take me to Court to
fight this charge. Therefore I need a writ so they'll be
forced to send me there.
(As I have Provably been in continuous custody since
Exhaustion: 1 July 2017 I had no ability to commit that crime.

(1) Have you presented Ground One to the Bureau of Prisons either through the prison grievance system or other administrative proceeding?

Yes ☒ No ☐

If yes, please provide the results of the proceeding(s) and the relevant date(s), including any appeals; if no, please explain why not: Local BOP staff

trying to resolve this, but are unable to do so.

They tell me there is no further appeal available.

- b. Ground Two: The BOP is denying me release to the Community / RRC placement due to the State of Maine warrant, but they are simultaneously preventing me from presently going to Maine to present evidence of my innocence on these charges.

Supporting FACTS: [Incorporate all GROUND ONE facts]

The State of Maine refuses to respond to BOP
staff or my Federal Parole Officer who have
tried to resolve this warrant.

Release to the Community / RRC Placement are
valid habeas grounds.

I am eligible for RRC placement in ~~late~~ early March 2017.
Exhaustion:

(1) Have you presented Ground Two to the Bureau of Prisons either through the prison grievance system or other administrative proceeding?

Yes ☒ No ☐

If yes, please provide the results of the proceeding(s) and the relevant date(s), including any appeals; if no, please explain why not: BOP Staff and my parole officer are unable to resolve and have said there is no further appeal available.

c. Ground Three: _____

Supporting FACTS: _____

Exhaustion:

(1) Have you presented Ground Three to the Bureau of Prisons either through the prison grievance system or other administrative proceeding?
Yes ☐ No ☐

If yes, please provide the results of the proceeding(s) and the relevant date(s), including any appeals; if no, please explain why not: _____

d. Ground Four: _____

Supporting FACTS: _____

Exhaustion:

(1) Have you presented Ground Four to the Bureau of Prisons either through the prison grievance system or other administrative proceeding?

Yes ☐ No ☐

If yes, please provide the results of the proceeding(s) and the relevant date(s), including any appeals; if no, please explain why not: _____

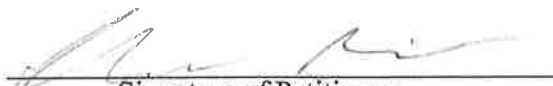
10. Based on the grounds raised above, what are you asking the Court to do?

- Appointment of Counsel for Petitioner.
- Order the State of Maine to immediately pick me up
in Otisville NY so I can fight this charge / present my alibi.
- Order the BOT to immediately transfer me to Community
Custody / Halfway house (or "house arrest")
- Provide all available relief.

DECLARATION

I declare under the penalty of perjury that I have read the above and the information contained in this petition is true and correct.

19 January 2017
(Date)


Signature of Petitioner

IF MAILED BY PRISONER:

I declare under the penalty of perjury that this Petition was (check one):

☒ delivered to prison officials for mailing or ☐ deposited in the prison's internal mail system on

19 January 2017
(Date)


Signature of Petitioner

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

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PLAINTIFFS

Christopher WITHALL

DEFENDANTS

Warden, FCI Otisville
President, Donald T. ...

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

Respondents:

US Attorney, (S.D. SD)

Petitioner is Pro Se.

CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)
(DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

28 USC § 2241(c) resolution of pending state charges, by a Fed inmate

Has this or a similar case been previously filed in SDNY at any time? No? ☐ Yes? ☒ Judge Previously AssignedIf yes, was this case Vol. ☐ Invol. ☐ Dismissed. No ☒ Yes ☐ If yes, give date _____ & Case No. _____

(PLACE AN [x] IN ONE BOX ONLY)

NATURE OF SUIT

ACTIONS UNDER STATUTES

CONTRACT

- ☐ 110 INSURANCE
- ☐ 120 MARINE
- ☐ 130 MILLER ACT
- ☐ 140 NEGOTIABLE INSTRUMENT
- ☐ 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- ☐ 151 MEDICARE ACT
- ☐ 152 RECOVERY OF DEFAULTED STUDENT LOANS (EXCL VETERANS)
- ☐ 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS
- ☐ 160 STOCKHOLDERS SUITS
- ☐ 190 OTHER CONTRACT
- ☐ 195 CONTRACT PRODUCT LIABILITY
- ☐ 196 FRANCHISE

PERSONAL INJURY

- ☐ 310 AIRPLANE
- ☐ 315 AIRPLANE PRODUCT LIABILITY
- ☐ 320 ASSAULT, LIBEL & SLANDER
- ☐ 330 FEDERAL EMPLOYERS' LIABILITY
- ☐ 340 MARINE
- ☐ 345 MARINE PRODUCT LIABILITY
- ☐ 350 MOTOR VEHICLE
- ☐ 355 MOTOR VEHICLE PRODUCT LIABILITY
- ☐ 360 OTHER PERSONAL INJURY

TORTS

PERSONAL INJURY

- ☐ 362 PERSONAL INJURY - MED MALPRACTICE
- ☐ 365 PERSONAL INJURY PRODUCT LIABILITY
- ☐ 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

PERSONAL PROPERTY

- ☐ 370 OTHER FRAUD
- ☐ 371 TRUTH IN LENDING
- ☐ 380 OTHER PERSONAL PROPERTY DAMAGE
- ☐ 385 PROPERTY DAMAGE PRODUCT LIABILITY

FORFEITURE/PENALTY

- ☐ 610 AGRICULTURE
- ☐ 620 OTHER FOOD & DRUG
- ☐ 625 DRUG RELATED SEIZURE OF PROPERTY
- ☐ 630 LIQUOR LAWS
- ☐ 640 RR & TRUCK
- ☐ 650 AIRLINE REGS
- ☐ 660 OCCUPATIONAL SAFETY/HEALTH
- ☐ 690 OTHER

LABOR

- ☐ 710 FAIR LABOR STANDARDS ACT
- ☐ 720 LABOR/MGMT RELATIONS
- ☐ 730 LABOR/MGMT REPORTING & DISCLOSURE ACT
- ☐ 740 RAILWAY LABOR ACT
- ☐ 790 OTHER LABOR LITIGATION
- ☐ 791 EMPL RET INC SECURITY ACT

BANKRUPTCY

- ☐ 422 APPEAL
- ☐ 28 USC 158
- ☐ 423 WITHDRAWAL
- ☐ 28 USC 157

PROPERTY RIGHTS

- ☐ 820 COPYRIGHTS
- ☐ 830 PATENT
- ☐ 840 TRADEMARK

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
- ☐ 862 BLACK LUNG (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID TITLE XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 TAXES (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-THIRD PARTY
- ☐ 26 USC 7609

OTHER STATUTES

- ☐ 400 STATE REAPPORTIONMENT
- ☐ 410 ANTITRUST
- ☐ 430 BANKS & BANKING
- ☐ 450 COMMERCE
- ☐ 460 DEPORTATION
- ☐ 470 RACKETEER INFLUENCED & CORRUPT ORGANIZATION ACT (RICO)
- ☐ 480 CONSUMER CREDIT
- ☐ 490 CABLE/SATELLITE TV
- ☐ 810 SELECTIVE SERVICE
- ☐ 850 SECURITIES/COMMODITIES/EXCHANGE
- ☐ 875 CUSTOMER CHALLENGE
- ☐ 12 USC 3410
- ☐ 890 OTHER STATUTORY ACTIONS
- ☐ 891 AGRICULTURAL ACTS
- ☐ 892 ECONOMIC STABILIZATION ACT
- ☐ 893 ENVIRONMENTAL MATTERS
- ☐ 894 ENERGY ALLOCATION ACT
- ☐ 895 FREEDOM OF INFORMATION ACT
- ☐ 900 APPEAL OF FEE DETERMINATION UNDER EQUAL ACCESS TO JUSTICE
- ☐ 950 CONSTITUTIONALITY OF STATE STATUTES

REAL PROPERTY

- ☐ 210 LAND CONDEMNATION
- ☐ 220 FORECLOSURE
- ☐ 230 RENT LEASE & EJECTMENT
- ☐ 240 TORTS TO LAND
- ☐ 245 TORT PRODUCT LIABILITY
- ☐ 290 ALL OTHER REAL PROPERTY

ACTIONS UNDER STATUTES

CIVIL RIGHTS

- ☐ 441 VOTING
- ☐ 442 EMPLOYMENT
- ☐ 443 HOUSING/ACCOMMODATIONS
- ☐ 444 WELFARE
- ☐ 445 AMERICANS WITH DISABILITIES - EMPLOYMENT
- ☐ 446 AMERICANS WITH DISABILITIES - OTHER
- ☐ 440 OTHER CIVIL RIGHTS

PRISONER PETITIONS

- ☐ 510 MOTIONS TO VACATE SENTENCE
- ☐ 20 USC 2255
- ☒ 530 HABEAS CORPUS
- ☐ 535 DEATH PENALTY
- ☐ 540 MANDAMUS & OTHER
- ☐ 550 CIVIL RIGHTS
- ☐ 555 PRISON CONDITION

IMMIGRATION

- ☐ 462 NATURALIZATION APPLICATION
- ☐ 463 HABEAS CORPUS-ALIEN DETAINEE
- ☐ 465 OTHER IMMIGRATION ACTIONS

Check if demanded in complaint:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.? IF SO, STATE:

DEMAND \$ _____ OTHER _____ JUDGE _____ DOCKET NUMBER _____

Check YES only if demanded in complaint
JURY DEMAND: ☐ YES ☐ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(PLACE AN x IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding ☐ 2a. Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from (Specify District) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court AND at least one party is pro se.

(PLACE AN x IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF ☒ 2 U.S. DEFENDANT ☐ 3 FEDERAL QUESTION (U.S. NOT A PARTY) ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1322, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] 1 [] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] 3 [] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] 5 [] 5
CITIZEN OF ANOTHER STATE	[] 2 [] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] 4 [] 4	FOREIGN NATION	[] 6 [] 6

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☐ MANHATTAN
(DO NOT check either box if this a PRISONER PETITION.)

DATE SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

[] YES (DATE ADMITTED Mo. _____ Yr. _____)
Attorney Bar Code #

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

Ruby J. Krajick, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

15 Withall
NUMBER 08964036
CORRECTIONAL INSTITUTION
0
NY 10963



UNITED STATES DISTRICT COURT

USM_{P3}
SDNY

⇔08964-036⇔
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